

GAHC010161422023



2026:GAU-AS:5805

THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/4185/2023

PARASH KUMAR BHATTACHARJEE
CONTRACTOR BY PROFESSION AND AS WELL AS PETITIONER IN
PERSON, REGENT PARADISE, 2B, GHORAMARA CHARIALI, GHORAMARA,
GUWAHATI-28.

VERSUS

THE ADDITIONAL CHIEF SECRETARY AND 5 ORS.
IN-CHARGE IRRIGATION, DISPUR, GUWAHATI-781006.

2:THE COMMISSIONER AND SECRETARY

DEPARTMENT OF IRRIGATION
DISPUR
GUWAHATI-781006.

3:THE SECRETARY TO THE DEPARTMENT OF IRRIGATION

DISPUR
GUWAHATI-781006.

4:THE CHIEF ENGINEER
ASSAM
IRRIGATION
CHANDMARI
GUWAHATI-3.

5:SRI SAIENDRA KUMAR BAISHYA
THE SUPERINTENDING ENGINEER

JORHAT CIRCLE (IRRIGATION)
NEAR CIRCUIT HOUSE

JORHAT-785001.

6:THE EXECUTIVE ENGINEER
BOKAKHAT KHUMTAI DIVISION (IRRIGATION)
BOKAKHAT.

7:M/S M.P. AGARWALLA
ADD-AT ROAD
BOKAKHAT TOWN
P.O. AND P.S-BOKAKHAT-785612.
DIST-GOLAGHAT
ASSA

Linked Case : WP(C)/2485/2024

PARASH KUMAR BHATTACHARJEE
S/O LT S N BHATTACHARJEE CONTRACTOR BY PROFESSION AND AS WELL
AS PETITION IN PERSON REGENT PARADISE 2B GHORAMARA CHARIALI
GHORAMARA GUWAHATI 28

VERSUS

THE CHIEF SECRETARY AND 7 ORS
GOVT OF ASSAM DISPUR GUWAHATI 781006

2:THE ADDITIONAL CHIEF SECRETARY
GOVT OF ASSAM DEPTT OF IRRIGATION DISPUR GUWAHATI 781006

3:THE PRINCIPAL SECRETARY
DEPTT OF FINANCE DISPUR GUWAHATI 781006

4:THE SECRETARY
DEPT OF IRRIGATION DISPUR GUWAHATI 781006

5:THE CHIEF ENGINEER(MINOR IRRIGATION)
CHANDMARI GUWAHATI 7 81003

6:THE SUPERINTENDING ENGINEER
JORHATI CIRCLE IRRIGATION NEAR JORHAT CIRCUIT HOUSE JORHAT 1

7:THE EXECUTIVE ENGINEER
GOLAGHAT SARUPATHAR DIVISION IRRIGATION GOLAGHAT

8:THE EXECUTIVE ENGINEER
BOKAKHAT KHUMTAI DIVISION IRRIGATION BOKAKHAT

Linked Case : WP(C)/6431/2023

PARASH KUMAR BHATTACHARJEE
S/O- LATE S.N. BHATTACHARJEE
CONTRACTOR BY PROFESSION AND AS WELL AS PETITIONER IN PERSON
REGENT PARADISE
2B
GHORAMARA CHARIALI
GHORAMARA
GHY-28.

VERSUS

THE ADDITIONAL CHIEF SECRETARY
IRRIGATION AND 6 ORS
IN-CHARGE IRRIGATION
DISPUR
GUWAHATI-781006.

2:THE COMMISSIONER AND SECRETARY

DEPARTMENT OF IRRIGATION
DISPUR
GUWAHATI-781006.

3:THE SECRETARY TO THE DEPARTMENT OF IRRIGATION
DISPUR
GUWAHATI-781006.

4:THE CHIEF ENGINEER
ASSAM
IRRIGATION
CHANDMARI
GUWAHATI-781003.

5:THE SUPERINTENDING ENGINEER

JORHAT CIRCLE (IRRIGATION)
NEAR CIRCUIT HOUSE
JORHAT-785001.

6:THE EXECUTIVE ENGINEER
GOLAGHAT- SARUPATHAR DIVISION (IRRIGATION)
GOLAGHAT.

7:M/S MP AGARWALA

AT ROAD
BOKAKHAT TOWN
P.O. AND P.S. BOKAKHAT
PIN- 785612
GOLAGHAT
ASSAM

BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH

For the Petitioner(s) : Mr. P. K. Bhattacharjee,
Petitioner-in-Person
For the Respondent(s) : Mr. B. Gogoi, AAG
Mr. N. Upadhyay, SC, Irrigation
Mr. D. Gogoi, Advocate

Date on which judgment is reserved : NA
Date of pronouncement of judgment : 24.04.2026
Whether the pronouncement is of the
Operative part of the judgment? : NA
Whether the full judgment has been
Pronounced? : Yes

JUDGMENT AND ORDER (ORAL)

Heard Mr. P. K. Bhattacharjee, the Petitioner-in-Person. I have also heard Mr. B. Gogoi, the learned Additional Advocate General as well as the Standing Counsel of the Finance Department; Mr. U. Upadhyay, the learned Standing Counsel appearing on behalf of the Irrigation Department and Mr. D. Gogoi, the learned counsel

appearing on behalf of the Private Respondent.

2. The three writ petitions are taken up together for disposal by this common judgment and order. The writ petition, i.e. WP(C) No.4185/2023 was filed by the Petitioner seeking a direction upon the Respondent No.5, i.e. the Superintending Engineer, Jorhat (Irrigation) to stop the tender work including allotment work and further sought for, in the interim, to stop the entire process including allotment if made till the disposal of the writ petition.

3. The material facts on the basis of which the said writ petition was filed is that the Respondent No.5, i.e. the Superintending Engineer, Jorhat (Irrigation) had invited an Online Bid vide the Notice Inviting Tender dated 15.06.2023 for a work "MDTWS (5 Points) at Rangamati Mouza under RIDF-XXVIII NABARD for the year 2022-23 amounting to Rs.1,48,50,098/- (approx.) under Bokakhat Khumtai Division (Irrigation), Bokakhat". The last date for submission of the Bid was on 13.07.2023 at 2:00 PM.

4. The Notice Inviting Tender included various terms and conditions in the various sections of the said Notice Inviting Tender. The "Instruction to the Bidders" which is Section-1 to the said Notice Inviting Tender stipulated the eligibility of the bidders, the qualification of the bidders and what the bidders should demonstrate to qualify for the contract.

5. It is the case of the Petitioner in writ petition, i.e. WP(C)

No.4185/2023 that the Respondent No.5, i.e. the Superintending Engineer, Jorhat (Irrigation) had hurriedly allotted the work to the single bidder who participated in the said bid amounting to Rs.1,48,50,098/-.

6. The grievance of the Petitioner herein is that when the Bid was only submitted by single participation, the authorities concerned ought to have cancelled the said tender process and should have refloated the tender. It is under such circumstances, the said writ petition was filed.

7. It is pertinent to take note of that the said writ petition was filed on 24.07.2023 and this Court vide an order dated 04.08.2023 issued notice, but did not pass any interim directions.

8. The Petitioner-in-Person filed the second writ petition being WP(C) No.6431 of 2023 seeking a direction upon the Respondent Authorities to suspend the work order issued by the Superintending Engineer, Jorhat Irrigation Circle with immediate effect and to recall and/or otherwise forbear for giving effect to the formal work order issued by the Superintending Engineer, Jorhat dated 14.08.2023. The Petitioner had also sought for a direction as to why criminal proceedings should not be initiated against the Superintending Engineer, Jorhat Irrigation Circle as well as the Private Respondent No.7 under the specific provisions of the Indian Penal Code for criminal conspiracy in furtherance of their common intention. A

perusal of the said writ petition would show that the Petitioner herein has referred to two tenders: one was the tender which is the subject matter of WP(C) No.4185/2023 and the second tender is another tender issued on 15.07.2023 for the work in "LIS from River Doyang and Greater Gomari Area under RIDF-XXVIII (NABARD) for the year 2022-23 amounting to Rs.4,91,39,319.00 (Approx) under Golaghat-Sarupathar Division (Irrigation) Golaghat". The date for submission of the bid was 07.08.2023.

9. It is the case of the Petitioner in the instant proceedings that the Bid was open in respect to the second tender issued on 15.07.2023 to all registered bidders, Class-I (A, B and C) contractors/firms of the Irrigation Department having experience in similar nature works. The qualifications as well as the eligibility of the bidder were duly mentioned in Section-1 of the Notice Inviting Tender, i.e. the "Instruction to the Bidders".

10. It is the allegation of the Petitioner that on account of certain conspiracy between the Respondent No.5 along with the Respondent No.7, the contract was granted in favour of the No.7 which goes very much against the settled principles of law. It is alleged that the Respondent No.5 has violated the various provisions of the Indian Penal Code, and as such, proceedings should be initiated against the Respondent No.5 along with the Respondent No.7. It is however very pertinent to mention that

neither in WP(C) No. 4185/2023 nor in WP(C) No.6431/2023, the Petitioner challenged the work orders issued in favour of the Private Respondent in respect to both the Notice Inviting Tenders which were issued on 15.07.2023 as well as 14.08.2023. It is very pertinent to mention that admittedly the Petitioner was in possession of both these work orders latest by 03.10.2023.

11. It is further pertinent to mention that the writ petition being WP(C) No.6431/2023 was filed on 20.10.2023 and vide an order dated 06.11.2023 while issuing notice, the maintainability of the writ petition was kept open to be decided at the admission stage. The learned Coordinate Bench vide the order dated 06.11.2023 was even not inclined to issue notice upon the Private Respondent No.7. However, vide an order dated 04.01.2024, the learned Coordinate Bench of this Court issued notice upon the Respondent No.7. No interim order, however, was passed in WP(C) No.6431/2023 thereby staying the work orders.

12. The third writ petition was filed by the Petitioner-in-Person, i.e. WP(C) No.2485/2024 wherein the Petitioner sought for cancellation of the two orders issued by the Superintending Engineer, Jorhat Circle, Irrigation with immediate effect. Be that as it may, there is no mention whatsoever as to which are the two orders the Petitioner sought for cancellation. The ground on which the third writ petition was filed was based upon the fact that the

Superintending Engineer, Jorhat (Irrigation) did not have the authority in terms of the Delegation Of Financial Powers Rules, 2022 to issue the tenders in question. This Court further takes note of that vide the order dated 19.07.2024, notice was issued. However, there was no interim order passed.

13. This Court has also taken notice of the fact that various miscellaneous applications have been filed by the Petitioner-in-Person which have been registered and numbered as IA(C) No. 151/2024; IA(C) No.2073/2024; IA(C) No.2579/2024; IA(C) No.2817/2025; IA(C) No.2401/2024 and IA(C) No.2581/2024.

14. The question which first arises is to whether the instant writ petitions are at all maintainable.

15. Mr. N. Upadhyay the learned Standing Counsel of the Irrigation Department submitted that the work orders which were issued on 15.07.2023 and 14.08.2023, the works in question have already been completed.

16. Mr. D. Gogoi, the learned counsel who appears on behalf of the Private Respondent submitted that all the works have been duly completed, but on account of the pendency of the writ petitions, the payments have been withheld.

17. This Court has duly taken note of the eligibility criteria which is necessary in respect to both the tenders. The eligibility which is required is that the bidder has to be a Class 1 (A, B, C) contractor

registered with the Irrigation Department.

18. This Court made a specific query upon the Petitioner-in-Person as to whether the Petitioner-in-Person was an eligible bidder. The Petitioner-in-Person instead of answering the query tried to shy away from the query.

19. Mr. N. Upadhyay, the learned Standing Counsel of the Irrigation Department, on the other hand, placed before this Court a communication issued on 27.08.2025 issued by the Chief Engineer, Irrigation wherein it was mentioned that the Petitioner-in-Person was a registered Class 1A contractor under the Irrigation Department and his registration was valid as an individual contractor for the financial year 2021-22. His registration thereupon renewed and was valid up to 31.03.2022. The Petitioner-in-Person, however, did not renew his registration for the financial year 2022-23 and 2023-24. Subsequently, in the financial year 2024-25, the Petitioner-in-Person converted his registration to operate as a firm under the name of "M/S PKB International Proprietor: Parash Kumar Bhattacharjee" and that registration was valid till 31.03.2025. The said communication is kept on record and marked with the letter "X".

20. From the above, it is therefore clear that the Petitioner herein was not an eligible bidder to both the tenders in question. In this regard, this Court finds it very relevant to take note of the

judgment of the Supreme Court in the case of ***Raunaq International vs. I.V.R. Construction Ltd. & Others***, reported in ***(1999) 1 SCC 492*** wherein the Supreme Court categorically observed that an ineligible bidder cannot challenge the grant of a contract.

21. Apart from the above, this Court further finds it relevant to take note of that in all the three writ petitions, there is neither a challenge to the Notice Inviting Tenders nor a challenge to the work orders in question. Apart from that, it is also apparent from the materials on record that the works in question have been completed and there is no denial to that effect by the Petitioner-in-Person.

22. Considering the above, it is the opinion of this Court that the three writ petitions so filed before this Court are not maintainable, but rather are an abuse of the process of the Court, and accordingly, the three writ petitions stand dismissed.

23. It is a trite principle of law that Interlocutory Application cannot traverse beyond the subject matter of the writ petitions. If the writ petitions are not maintainable, the Interlocutory Applications would have no legs to stand on its own. Accordingly, the Interlocutory Applications so filed are also rejected.

24. This Court would have imposed exemplary costs upon the Petitioner-in-Person, but taking into account that it is the

Petitioner-in-Person who has appeared and conducting the cases, this Court restrains itself from imposing such costs.

25. Before parting with the record, this Court observes that the observations made herein above as well as the dismissal of the writ petitions shall not preclude or prejudice the Petitioner-in-Person to approach the Appropriate Forum, if so advised.

JUDGE

Comparing Assistant